

HOUSE BILL NO. 271

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES WILSON, Elkins

Introduced: 4/15/05

Referred: Labor and Commerce, Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to limitations on overtime for registered nurses in health care facilities;**
2 **and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **LEGISLATIVE FINDINGS AND INTENT.** The legislature finds that

7 (1) it is essential that registered nurses providing direct patient care be
8 available to meet the needs of patients;

9 (2) quality patient care is jeopardized by registered nurses who work
10 unnecessarily long hours in health care facilities;

11 (3) registered nurses are leaving their profession because of workplace
12 stresses, long work hours, and depreciation of their essential role in the delivery of quality and
13 direct patient care;

14 (4) it is necessary to safeguard the efficiency, health, and general well-being

1 of registered nurses and the health and general well-being of the persons receiving care from
2 registered nurses in health care facilities;

3 (5) it is necessary that registered nurses be made aware of their rights, duties,
4 and remedies concerning hours worked and patient safety; and

5 (6) health care facilities should provide adequate and safe nursing staffing
6 without the need for or use of mandatory overtime.

7 * **Sec. 2.** AS 18 is amended by adding a new chapter to read:

8 **Chapter 09. Overtime Limitations for Registered Nurses.**

9 **Sec. 18.09.010. Limitations on nursing overtime.** (a) Except as provided in
10 (b) of this section, a nurse in a health care facility may not be required or coerced,
11 either directly or indirectly, to accept an assignment of overtime if, in the judgment of
12 the nurse, the overtime would jeopardize patient or employee safety.

13 (b) This section does not apply to

14 (1) a nurse on duty in overtime status because of an unforeseen
15 emergency situation that could otherwise jeopardize patient safety;

16 (2) a nurse fulfilling prescheduled on-call time;

17 (3) a nurse voluntarily working overtime;

18 (4) the first hour on overtime status when the health care facility is
19 obtaining another nurse to work in place of the nurse in overtime status;

20 (5) a critical access hospital.

21 (c) After working 12 or more consecutive hours, a nurse shall be allowed not
22 less than eight consecutive hours of off-duty time immediately following the end of
23 that period of duty.

24 (d) A health care facility shall provide for an anonymous process for patients
25 and nurses to make complaints related to staffing levels and patient safety.

26 (e) In this section,

27 (1) "critical access hospital" has the meaning in 42 U.S.C.
28 1395x(mm)(1);

29 (2) "unforeseen emergency situation" means an unusual, unpredictable,
30 or unforeseen situation caused by an act of terrorism, disease outbreak, natural
31 disaster, or other act of God, but does not include a situation in which a health care

1 facility has reasonable knowledge of increased patient volume or inadequate staffing
2 because of staff scheduling, vacations, medical leave, or other foreseeable cause.

3 **Sec. 18.09.020. Prohibition of retaliation.** A health care facility may not
4 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
5 Board of Nursing against a nurse for exercising rights under this chapter or for the
6 good faith reporting of an alleged violation of this chapter.

7 **Sec. 18.09.030. Enforcement, offenses, and penalties.** (a) The
8 commissioner shall administer this chapter and adopt regulations for implementing
9 and enforcing this chapter.

10 (b) A complaint alleging a violation of this chapter must be filed with the
11 commissioner within 30 days following the date of the alleged violation. The
12 commissioner shall provide a copy of the complaint to the health care facility named
13 in the filing within three business days after receiving the complaint.

14 (c) Upon a finding by the commissioner that a health care facility has violated
15 a provision of this chapter, the following civil penalties shall apply:

16 (1) for a first violation of this chapter, the health care facility shall
17 receive a reprimand and shall pay a nurse required to work in violation of this chapter
18 three times the nurse's hourly compensation for each hour worked in violation of this
19 chapter;

20 (2) for a second violation of this chapter within 12 months, the health
21 care facility shall receive a reprimand, shall be assessed a penalty of \$500, and shall
22 pay a nurse required to work in violation of this chapter three times the nurse's hourly
23 compensation for each hour worked in violation of this chapter;

24 (3) for a third violation of this chapter within 12 months, the health
25 care facility shall be assessed a penalty of not less than \$2,500 but not more than
26 \$5,000 for each violation and shall pay a nurse required to work in violation of this
27 chapter three times the nurse's hourly compensation for each hour worked in violation
28 of this chapter.

29 (d) In this section, "commissioner" means the commissioner of labor and
30 workforce development.

31 **Sec. 18.09.900. Definitions.** In this chapter,

1 (1) "health care facility" means a private, municipal, state, or federal
2 hospital; psychiatric hospital; independent diagnostic testing facility; residential
3 psychiatric treatment center; skilled nursing facility; kidney disease treatment center
4 (including freestanding hemodialysis units); intermediate care facility; ambulatory
5 surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by
6 the Department of Health and Social Services under AS 47.55; correctional facility
7 administered by the Department of Corrections or the Department of Health and
8 Social Services; private, municipal, state, or federal facility employing one or more
9 public health nurses; long-term care facility; or primary care outpatient facility;

10 (2) "nurse" means an individual licensed to practice registered nursing
11 under AS 08.68 who provides nursing services through direct patient care or clinical
12 services and includes a nurse manager when delivering in-hospital patient care;

13 (3) "overtime" means the hours worked in excess of a predetermined
14 and regularly scheduled shift that is agreed upon by a nurse and a health care facility.

15 * **Sec. 3.** This Act takes effect January 1, 2006.